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PROMOTION AND PROTECTION OF HUMAN RIGHTS: HUMAN RIGHTS DEFENDERS

Written statement* submitted by the Asian Legal Resource Centre (ALRC), a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 January 2002]

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*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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ENG

1. The Asian Legal Resource Centre welcomes the recent prosecution of 10 persons responsible for crimes against humanity in East Timor between January and October 1999. Although the convictions do not reach those top-level decision makers responsible for the widespread human rights violations there in the lead-up to the independence ballot, the sentences handed down may go some way to ending the culture of impunity that existed in the Republic of Indonesia under the Soeharto regime. Notwithstanding, the Indonesian legal system continues to fail human rights defenders there more than three years after the fall of Soeharto.

2. It is clear that there has not been any real reform of the criminal justice system in Indonesia since the days of dictatorship, which began with the 1965-66 massacre of between 500,000 and 2 million alleged communists. To date not one perpetrator has been arrested and charged for that atrocity. Human rights defenders were among those murdered, tortured, detained and otherwise abused both during that period and subsequently. Pramoedya Ananta Toer, a prominent author, was sentenced to 11 years without trial or formal charge; Ibu Sulami, a women's movement leader, spent 20 years in prison-just to name two of thousands. A system that denies justice to past human rights defenders is unlikely to protect the rights of current ones.

3. Among human rights defenders targeted at present are those documenting violations of human righs in Aceh and West Papua, where struggles for self-determination are currently unfolding. These people are subject to threats, disappearances and extrajudicial killings at the hands of the military, police, paramilitary, security guards and armed independence groups. In Aceh, where only one judge remains, as of 7 December 2001, Koalisi NGO HAM Aceh had verified 103 disappearances during 2001. In West Papua, the recent assassination of independence leader Theys Eluay with the suspected involvement of Kopassus (Army Special Force Command) affirms that the tactic of 'silencing through terror' spans the length of the archipelago. The Indonesian National Human Rights Commission (Komnas HAM) has conducted preliminary research into the murder and recommended that the government establish an independent commission of inquiry into the death of Mr. Eluay. Unless this inquiry can be conducted in a matter that will satisfy the local and international human rights communities, the last strands of goodwill remaining among the Papuan population towards Jakarta will surely be lost.

4. Central Sulawesi (2,000 civilians killed since 1999) and Maluku and North Maluku (5,000 to 12,000 civilians killed since 1999) are also now entrenched in communal violence and religious segregation. It is clear that the military has engineered and extended these conflicts for its own political and financial ends with complete impunity. Armed civilian groups such as Laskar Jihad and Christian militias have a political and economic interest in maintaining the suspicion, animosity and violence, and have suppressed human rights defenders from their own communities trying to rebuild inter-faith relations. Despite ceremonies and discussions on 'conflict resolution' and 'reconciliation', the government has failed to intervene to disarm and disband those perpetuating the conflict. Even the most basic demand of the people-that armed militia groups be prevented from travelling en masse to different islands on militant religious missions-has not been met, as thousands of Laskar Jihad members reportedly travelled to Poso in December 2001 to reawaken the bloody conflict in Central Sulawesi.

5. Although it is urgent that the international community address conditions in these 'exceptional' areas, it is also vital to understand that there is nowhere in Indonesia that human rights defenders can carry out their work without repercussions. An example of how the entire military-police-judicial system remains Soeharto's legacy comes in the

treatment of 19 persons in Bandung motivated to demand reasonable prices for cooking oil. On 14 June 2001, students, workers and activists held a rally to protest government plans to increase the price of oil, an essential commodity. The police, apparently angry that they did not make any arrests for a separate protest the previous day, violently attacked the protestors. Helped by 'preman' (civilian representatives of the military), the police kicked, punched, and beat the defenders with long bamboo poles. One defender was knocked unconscious with a teargas gun; another was sliced in the back with a removable bayonet; a third was beaten unconscious and dragged along the ground; a fourth hit on the head with a bamboo pole so that her headscarf was soaked in blood. The defenders were then taken to a 'holding area', where they were beaten further and verbally abused incessantly. They were herded into police vehicles, and beaten again. They were taken to the Bandung police station, where they were beaten and interrogated and forced under threat of torture to sign statements, many of which were not read by the defenders. They were kept incommunicado for the first five to seven days of detention, while the majority of their torture wounds were healing, during which time they were subject to further physical and mental abuse. Under international pressure they were finally released on bail after two months. Since the trial began the court has ignored complaints of torture and instead accepted the statements signed by the defenders under police intimidation as evidence. The judges have enabled the prosecution to enjoy endless delays in proceedings, and have cross-examined the defence witnesses far more harshly than the prosecutors themselves. There is no pretence of neutrality by the judges-they clearly believe the defenders are guilty of some serious crime, but lack any concrete evidence to convict them.

6. The environment for the promotion of human rights in Indonesia has worsened in 2001 with the re-emergence of 'anticommunist' organisations. These groups have attacked any person, organisation, office, movement, worker or object considered to have 'left-wing ideology'. Attacks have included book-burning, physical intimidation, kidnapping, public threats on television and other mass media, and burning and destruction of offices. Many of the organisations that operated covertly under the Soeharto regime and had at least been able to conduct their human rights work openly during the past few years have had to go underground again. This deterioration in conditions is unsurprising, as the military-police-judicial system remains almost identical to the pre-1997 model, and Soeharto's allies retain power and influence.

7. Although the Asian Legal Resource Centre is pleased that the Government of Indonesia has introduced new legislation to separate police and military functions, congratulations must be reserved until the police and military are seen to be fulfilling their purported functions of protecting and promoting the welfare of the Indonesian people, rather than continuing to violently suppress those calling for human rights. Furthermore, despite the courageous role of the Secretary General of Komnas HAM, the commission remains paralysed by the ongoing presence of numerous former members of Soeharto's military. What the commission has been able to achieve to date looks set to be lost as the organisation is now being brought under direct control of the government. Its staff will be made public servants and the parliament appoint future commissioners, at a minimum age of 40 years, which will rule out the majority of the current commission.

8. The Asian Legal Resource Centre urges the international human rights community not to be misled into believing that Indonesia has entered a period of democracy and human rights promotion. Until the military-police-judicial system and the criminal prosecutions system are reformed, the role of these institutions remains as it was during the Soeharto dictatorship: to protect the perpetrators of state crimes and suppress the voices and activities of human rights defenders. The international

community must instead press for fundamental criminal justice reform in Indonesia to enable the future protection of the many courageous defenders of human rights there.